

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(C).No. 33326 of 2015 (M)

PETITIONER:

**N.H. SHAMEER, PROPRIETOR,
M/S.S.R.ENTERPRISES, U.C.COLLEGE P.O.,
ALUVA.**

**BY ADVS.SRI.P.S.SOMAN
SMT.T.RADHAMANY**

RESPONDENT(S):

- 1. COMMERCIAL TAX OFFICER,
ALUVA.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
COMMERCIAL TAX COMPLEX, THEVARA-682 016.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, MATTANCHERRY- 682 001.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF THE ASSESSMENT UNDER THE KAVAT ACT
DATED 29.5.2015 FOR THE YEAR 2012-2013.
- EXT. P2 : TRUE COPY OF THE APPEAL MEMORANDUM FILED BEFORE THE
2ND RESPONDENT DATED 15.6.2015.
- EXT. P3 : TRUE COPY OF THE PETITION FOR EARLY HEARING OF THE APPEAL
FILED AGAINST THE K VAT ASSESSMENT FOR THE YEAR 2012-13
DATED 15.6.2015.
- EXT. P4 : TRUE COPY OF THE PETITION FOR STAY OF COLLECTION FILED BY
BEFORE THE 2ND RESPONDENT DATED 15.6.2015.
- EXT. P5 : TRUE COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY
3RD RESPONDENT DATED 23.7.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.33326 of 2015

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Dated this the 3rd day of November, 2015

J U D G M E N T

Against Ext.P1 assessment order under the Kerala Value Added Tax Act, the petitioner has preferred Ext.P2 appeal and Ext.P4 stay petition before the 2nd respondent. It is the case of the petitioner that even prior to considering the stay petition, recovery steps are sought to be pursued for recovery of the amounts confirmed by Ext.P1 assessment order.

2. I have heard the learned counsel for the petitioner and also the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I dispose the writ petition with the following directions:

i. The 2nd respondent shall consider and pass orders on Ext.P4 stay petition within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

ii. Coercive steps for recovery of amounts confirmed against the petitioner by Ext.P1 assessment order shall be kept in abeyance till

orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

iii. The order to be passed by the 2nd respondent shall be a reasoned one advertent to the contentions of the petitioner regarding existence of a prima facie case for a stay of recovery pending disposal of the appeal.

A.K.JAYASANKARAN NAMBIAR
JUDGE

